# UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF PENNSYLVANIA

Adrianne Grzybowski,		: Civil Action No.:
	Plaintiff,	· :
v.		:
Tax Rise, Inc.,		COMPLAINT
	Defendant.	:
		: :

For this Complaint, the Plaintiff, Adrianne Grzybowski, by undersigned counsel, states as follows:

# **JURISDICTION**

- 1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et. seq. (the "TCPA") and 47 C.F.R. § 64.1200(c)(2).
- 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

### **PARTIES**

- 3. The Plaintiff, Adrianne Grzybowski ("Plaintiff"), is an adult individual residing in Wilkes Barre, Pennsylvania, and is a "person" as defined by 47 U.S.C. § 153(39).
- 4. Defendant Tax Rise, Inc. ("Defendant"), is a California business entity with an address of 19900 MacArthur Boulevard, Suite 400, Irvine, California 92612, and is a "person" as defined by 47 U.S.C. § 153(39).

#### THE NATIONAL DO-NOT-CALL REGISTRY

- 5. The National Do-Not-Call Registry allows consumers to register their telephone numbers and thereby indicate their desire not to receive telephone solicitations at those numbers. *See* 47 C.F.R. § 64.1200(c)(2).
- 6. A listing on the Do-Not-Call Registry "must be honored indefinitely, or until the registration is cancelled by the consumer or the telephone number is removed by the database administrator." *Id.*
- 7. The TCPA and implementing regulations prohibit the initiation of telephone solicitations to residential telephone subscribers to the Do-Not-Call Registry and provides a private right of action against any entity that initiated more than one such telephone solicitation within any 12-month period. 47 U.S.C. § 227(c)(5); 47 C.F.R. § 64.1200(c)(2).
- 8. Telephone solicitations under 47 C.F.R. § 64.1200(c)(2) include text messages. *See Gulden v. Liberty Home Guard LLC*, 2021 WL 689912, at \*4–5 (D. Ariz. Feb. 23, 2021).

## **FACTUAL ALLEGATIONS**

- 9. Plaintiff's cellular number, 570-XXX-6427, has been registered with the National Do-Not-Call Registry since February 2, 2007.
- 10. Plaintiff does not have a separate residential telephone number and uses the cellular telephone as a residential telephone number.
- 11. Within the last year, Defendant initiated telephone solicitations to Plaintiff's cellular telephone by sending repeated text messages to Plaintiff's cellular telephone regarding assistance with tax debt.
- 12. In January 2021 and multiple times since, Plaintiff replied to Defendant's texts with "STOP."

- 13. Despite Plaintiff's unequivocal instructions that Defendant stop all text messages, Defendant did not cease its telemarketing text messages to Plaintiff's cellular telephone within a reasonable amount of time.
- 14. Plaintiff continued to receive the unwanted text message solicitations from Defendant through mid-March 2021.

# **COUNT I**

# VIOLATIONS OF THE TCPA (47 U.S.C. § 227, et seq. and 47 C.F.R. § 64.1200(c)(2))

- 15. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 16. 47 C.F.R. § 64.1200(c)(2) provides that "No person or entity shall initiate any telephone solicitation to . . . (2) A residential telephone subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the Federal Government. Such do-not-call registrations must be honored indefinitely, or until the registration is cancelled by the consumer or the telephone number is removed by the database administrator."
- 17. The TCPA provides a private right of action to "A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations . . . ." 47 U.S.C. § 227(c)(5).
- 18. Defendant knowingly and willfully violated 47 U.S.C. § 227, et seq. and 47 C.F.R. § 64.1200(c)(2) by initiating more than one telephone solicitation text messages to Plaintiff's cellular telephone within a 12-month period despite the fact that Plaintiff's cellular telephone was registered on the National Do-Not-Call Registry at all relevant times.

19. Plaintiff is entitled to an award of \$500.00 in statutory damages for each text message sent by the Defendant in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

20. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each text message Defendant sent to Plaintiff that constitutes a knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

## PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendant as follows:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
- C. Such other and further relief as may be just and proper.

#### TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: October 12, 2022

Respectfully submitted,

By /s/ Jody B. Burton

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